

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

101 WEST LOMBARD STREET
BALTIMORE, MARYLAND 21201
(410) 962-0782
(410) 962-2698 FAX

May 30, 2006

Memo to Counsel Re: MDL-15863, Columbia Subtrack
Dukes v. Columbia Acorn Fund, et al.,
Civil No. JFM-04-1763

Dear Counsel:

I have reviewed the memoranda submitted in connection with defendant Samaritan Asset Management's ("Samaritan") motion for reconsideration of my decision to deny its motion to dismiss. The motion will be granted.

The two allegations in the complaint that specifically mention Samaritan only contain the conclusory allegation that the company engaged in market timing. (Compl. ¶¶ 57, 116). Nowhere in the complaint does the plaintiff allege any specific facts concerning either an improper relationship between Samaritan and Columbia or late trading by Samaritan. Thus, because "[m]arket timing . . . is not illegal *per se*," *In re Mutual Funds Invest. Litig.*, 384 F. Supp. 2d 845, 856 (D. Md. 2005), the claims against Samaritan must be dismissed. If plaintiff desires to amend her complaint to replead the dismissed claims, she must file a motion for permission to do so.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order. I ask that the parties submit within two weeks a proposed order reflecting the ruling made herein.

/s/
J. Frederick Motz
United States District Judge